

November 10, 2016

Mr. Anthony R. Pietrangelo, Senior Vice President  
and Chief Nuclear Officer  
Nuclear Energy Institute  
1201 F Street, NW, Suite# 1100  
Washington, DC 20004

Dear Mr. Pietrangelo:

By letter dated September 29, 2016 (Agencywide Document Access and Management System (ADAMS) Accession No. ML16274A473), the Nuclear Energy Institute (NEI) provided industry's views on the U.S. Nuclear Regulatory Commission's (NRC's) Operability Determination (OD) process as documented in Inspection Manual Chapter 0326, "Operability Determinations & Functionality Assessments for Conditions Adverse to Quality or Safety" (ADAMS Accession No. ML15328A099). In this letter, NEI disagreed with recent application of NRC's OD guidance and stated the industry's intention to develop guidance clarifying the conditions and criteria that would lead to entry into the OD process. Specifically, NEI disagreed with two Non-Cited Violations (NCVs) issued by the NRC to Indian Point 3 (NCV 05000286/2016002-02, ADAMS Accession No. ML16243A245) and Salem 2 (NCV 05000311/2016002-02, ADAMS Accession No. ML16266A224). These NCVs document licensees' noncompliance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, Appendix B, Criterion V, "Instructions, Procedures and Drawings," for not following station procedures for conducting ODs when new operating experience indicated more extensive degradation of baffle former bolts was likely.

With respect to the specific NCVs referenced in your letter, the NRC staff will continue to follow its process regarding contested NCVs which can be found in Section 2.2.8, "Licensee Denial of NCV," of the Enforcement Manual (ADAMS Accession No. ML102630150).

The NRC staff is aware of NEI's ongoing effort to develop industry guidance on the process for performing ODs. The NRC staff looks forward to continued meaningful interactions with industry and the public to help ensure necessary and appropriate clarity in OD guidance.

If you have any further questions, please contact the Chief of the Technical Specifications Branch, Alexander R. Klein by email at [Alex.Klein@nrc.gov](mailto:Alex.Klein@nrc.gov) or by phone at 301-415-2822.

Sincerely,

/RA/

Michael R. Johnson  
Deputy Executive Director for Reactor  
and Preparedness Programs  
Office of the Executive Director for Operations

Mr. Anthony R. Pietrangelo, Senior Vice President  
and Chief Nuclear Officer  
Nuclear Energy Institute  
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Sincerely,  
/RA/

Michael R. Johnson  
Deputy Executive Director for Reactor  
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Office of the Executive Director for Operations

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